

1 MARK R. CONRAD (CA Bar No. 255667)

2 **CONRAD & METLITZKY LLP**

3 Four Embarcadero Center, Suite 1400

4 San Francisco, CA 94111

5 Tel: (415) 343-7100

6 Fax: (415) 343-7101

7 Email: mconrad@conradmetlitzky.com

8 JAMES D. WEINBERGER (admitted *pro hac vice*)

9 JASON D. JONES (admitted *pro hac vice*)

10 **FROSS ZELNICK LEHRMAN & ZISSU, P.C.**

11 866 United Nations Plaza

12 New York, New York 10017

13 Tel: (212) 813-5900

14 Fax: (212) 813-5901

15 Email: jweinberger@fzlj.com, jjones@fzlj.com

16 Attorneys for Plaintiff Asuragen, Inc.

17 JOHN L. SLAFSKY, Cal Bar No. 195513

18 ANTHONY J. WEIBELL, Cal. Bar No. 238850

19 **WILSON SONSINI GOODRICH & ROSATI, P.C.**

20 650 Page Mill Road

21 Palo Alto, CA 94304-1050

22 Tel: (650) 493-9300

23 Fax: (650) 565-5100

24 Email: jslafsky@wsgr.com, aweibell@wsgr.com

25 Attorneys for Defendant AccuraGen, Inc.

26
27 UNITED STATES DISTRICT COURT
28 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

21 ASURAGEN, INC.,

22 Plaintiff,

23 v.

24 ACCURAGEN, INC.,

25 Defendant.

CASE NO. 16-CV-05440

**STIPULATION AND ~~PROPOSED~~
ORDER TO CLARIFY CASE
MANAGEMENT SCHEDULE AND SET
SUMMARY JUDGMENT BRIEFING
AND HEARING SCHEDULE**

1 WHEREAS, on January 11, 2017, Plaintiff Asuragen, Inc. (“Asuragen”), and Defendant
2 AccuraGen, Inc. (“AccuraGen”) submitted a joint case management statement in the above-captioned
3 matter proposing a filing deadline for “Summary Judgment Motions and Daubert Motions” on
4 November 3, 2017, *see* Dkt. No. 26;

5 WHEREAS, following the initial case management conference held in this matter on January 26,
6 2017, the Court issued a Case Management Scheduling Order, which provides that “dispositive pretrial
7 motions” shall be “heard no later than January 11, 2018,” but does not otherwise set a schedule for
8 summary judgment briefing, *see* Dkt. No. 30 at 2;

9 WHEREAS, the Court’s Guidelines for Final Pretrial Conference provides that motions *in limine*
10 shall be filed not later than ten (10) days before the pretrial conference,” and the Court’s Case
11 Management Scheduling Order provides that the “final pretrial conference will be held on March 22,
12 2018,” but these orders set no specific deadlines with respect to the filing of *Daubert* motions;

13 WHEREAS, counsel for Asuragen and AccuraGen have met and conferred and agree upon an
14 appropriate schedule for briefing on summary judgment in this matter, and wish to modify the default
15 briefing schedule set by the Local Civil Rules, *see* N.D. Cal. Civ. L.R. 7;

16 WHEREAS, counsel for Asuragen and AccuraGen have further met and conferred and agree
17 about the appropriate timing for *Daubert* motions in this case based upon their mutual view that the
18 presentation of such motions in conjunction with summary judgment proceedings would result in an
19 unnecessary duplication and waste of the parties’ and the Court’s time;

20 NOW, THEREFORE, Asuragen and AccuraGen stipulate to the set and/or clarify the deadlines
21 set forth below with respect to summary judgment and *Daubert* motions in the above-referenced matter,
22 subject to the Court’s approval:

- 23 • Motion for Summary Judgment — November 9, 2017
 - 24 • Opposition to Motion for Summary Judgment — November 30, 2017
 - 25 • Reply in Support of Motion for Summary Judgment — December 7, 2017
- 26
27
28

- Hearing on Motion for Summary Judgment — December 21, 2017
- *Daubert* Motions — 10 days prior to Pretrial Conference

Respectfully submitted,

DATED: November 8, 2017

CONRAD & METLITZKY LLP

/s/ Mark R. Conrad

MARK R. CONRAD

Attorneys for Plaintiff Asuragen, Inc.

DATED: November 8, 2017

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

/s/ James D. Weinberger

JAMES D. WEINBERGER

JASON D. JONES

Attorneys for Plaintiff Asuragen, Inc.

DATED: November 8, 2017

WILSON SONSINI GOODRICH & ROSATI, P.C.

/s/ Anthony J. Weibell

ANTHONY J. WEIBELL

Attorneys for Defendant AccuraGen, Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: November 13, 2017



HON. RICHARD SEEBORG